REMARKS

The pending Office Action addresses claims 1-23. Claims 1-23 stand rejected. Claims 1-23 are canceled herein and new claims 24-45, including one independent claim (claim 24) are herein added. Reconsideration and allowance are requested based on the remarks below.

Claim Objections

The Examiner has objected to claim 9, specifically stating:

> an apparent typographical error exists on line 1: "A method of claim 1, 8". The claim should be amended to clearly identify the dependency of claim 9 to either claim 1, claim 8 or both. Appropriate correction is required. For purposes of examination, claim 9 will be interpreted to read "A method of claim 8".

Applicants have canceled this claim.

Claim Amendments

Applicants have canceled the pending claims and presented new claims, along the same lines as those previously pending, but clarifying the features of the invention. New independent claim 24 presents a method in a server-side format. That is, the method is recited as seen from the perspective of the matching database system. As noted, for example, in paragraph 28 of the published application, this system includes one or more server computers that generally include interface and processing software, database code, and data structures as required to carry out the functions of the matching database system.

In one step of the method, the server receives profile data relating to a wireless mobile device user. Examples of this data and process are described at paragraphs 29 to 33 of the application as published. In exemplary embodiments (also provided in dependent claims), the profile data can include both characteristic and criterion data for two-way matching. As further provided in the dependent claims, at least some of the profile data can also be compiled passively. This profile data is stored in the matching database system.

In a further step, the server receives from the wireless mobile device user a request for data. Importantly, it is the user who drives the requesting and matching process. The user can request data in a variety of ways, including by agreeing to or establishing a schedule for when new matches will be run. Matching based upon the profile data is then run by the matching database system. *See*, paragraphs 34 to 39 of the application as published.

Once the matching is performed, a notification message of the matching data is transmitted to the wireless mobile device for review by the wireless mobile device user. In a preferred embodiment (also claimed), the notification message is interactive, that is, it allows the receiver of the message to begin real-time, interactive communication with another user to whom the first user is matched, or to a person otherwise related to the matching data. Again, importantly, the user is in control of the interactive messaging, which can be performed anonymously (also claimed). *See*, paragraphs 40 to 45 and 53 to 58.

New claims 35 to 44 provide similar features for the circumstance that the matching data represents another wireless user of the system – for example, in a personals system as is described throughout the specification.

Rejections Pursuant to 35 U.S.C. § 102(e)

The Examiner rejects claims 1-13 and 15-16 pursuant to 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publ. No. 2002/0059370 (Shuster). Specifically, The Examiner states:

Claim 1

> As to claim 1, Shuster teaches a method for transferring and communicating data . between a mobile device from a wireless network requested from a database connected to a network, comprising:

storing data onto a server (¶¶ 0009, 0024-0026. See e.g., web server 33 and external data source 40);

connecting to a wireless network (¶¶ 0005-0006);

requesting data from a mobile device (¶¶ 0023, 0025-0026, 0029);

transmitting data from the mobile device to the server (¶¶ 0023, 0025-0026, 0029-0030);

matching data from the wireless device to the data on the server (¶¶ 0038-0040); and

transferring other data from the server to the wireless device (¶¶ 0038-0040).

Claim 2

As to claim 2, Shuster teaches a method according to claim 1, wherein the mobile device is a mobile phone, a personal digital assistant (PDA), or a paging device (¶¶ 0005-0006).

Claim 3

As to claim 3, Shuster teaches a method of claim 1, wherein the data includes information from a retailer or service provider within the vicinity designated by the-user's selection (¶ 0046).

Claim 4

As to claim 4, Shuster teaches a method of claim 3 wherein the information includes advertising information (¶ 0046).

Claim 5

As to claim 5, Shuster teaches a method of claim 1, further comprising: creating a user profile on the mobile device; posting the data onto a server on the network (¶¶ 0025-0026).

Claim 6

As to claim 6, Shuster teaches a method of claim 5, wherein the data includes user preferences (¶J 0025-0026).

Claim 7

As to claim 7, Shuster teaches a method of claim 5, wherein the data is matched to data on a server located on the network (¶¶ 0025-0027, 0029-0030).

Claim 8

As to claim 8, Shuster teaches a method of claim 7, wherein the results of the data matched is categorized to the level of accuracy of the match (¶¶ 0037-0038).

Claim 9

As to claim 9, Shuster teaches a method of claim 8, wherein a messaging means is communicated to the mobile device via a wireless network (¶¶ 0005-0006).

Claim 10

As to claim 10, Shuster teaches a method in a server for providing data to a mobile device comprising the steps of:

receiving a request for matching information via a wireless network (¶¶ 0005-0006); and

selectively providing matching information to the mobile device for storage therein and displaying to the user (¶¶ 0025-0027, 0029-0030, 0037-0038).

Claim 11

As to claim 11, Shuster teaches a method in a mobile device for displaying information targeted to a user's profile comprising the steps of:

receiving information to be stored in memory of a mobile device (¶¶ 0025-0027, 0029-0030, 0037-0038);

displaying data on the mobile device in accordance with the user's selection (¶¶ 0037-0040); and

displaying targeted information for display on the mobile device (¶¶ 0037-0040).

Claim 12

As to claim 12, Shuster teaches a method of claim 11 wherein the information includes text and graphics (¶ 0040) .

Claim 13

As to claim 13, Shuster teaches a method of claim 11 wherein the targeted information includes user selectable options (¶¶ 0037-0040) .

Claim 15

> As to claim 15, Shuster teaches a method for communicating to Internet websites using a mobile device connected to a wireless network, comprising:
>
> transmitting data from the mobile device to a server on the network (¶¶ 0023, 0025-0026, 0029);
>
> checking for user preferences on the network server sending the user matching information including text and graphics based on the user profile (¶¶ 0025-0027, 0029-0030, 0037-0038); and
>
> displaying the matching information on the mobile device (¶¶ 0037-0040) .

Claim 16

> As to claim 16, Shuster teaches a method according to claim 15, wherein the matching information identifies by messaging means the availability of at least one product or service (¶ 0046).

Shuster is directed to a method for "anticipating a user's desired information." *See*, Abstract, and throughout. The system is able to anticipate because it includes a number of sensors that can be turned on to sense what is going on in the user's environment, then it pushes what it hopes to be relevant information to the user. For example, when a user enters a hardware store, a GPS sensor tells the system where the user is, and the system might push the hardware store's current advertised specials to the user. Similarly, an audio sensor might listen to the user ask a salesperson a question about "washers," and the system would push data about washers to the user. *See*, paragraph 46.

Shuster does not allow a user to seek people or information based on user selected matching of profile data. For example, the Examiner references paragraphs 38 to 40 for the proposition that Shuster teaches matching and transferring data back to the mobile device. That segment of Shuster merely teaches the opening of Web pages. Reviewing the material leading into the segment of Shuster (starting at paragraph 31) makes clear how Shuster operates. The system takes in data from various sensors, digitizes, and stores that data. *See*, paragraphs 31-33. Query strings are then generated based upon this stored sensor data. *See*, paragraph 34. The system then queries an external data source to find information related to the sensor data. *See*, paragraph 36. The only example of how this works, provided in paragraph 37, is through the use of a conventional search engine to search for information available over the Internet. This information is then delivered using Web pages in the paragraphs cited by the Examiner.

Schuster does not teach the matching of profile data based on a user request. It is further not two-way matching of profile data using characteristic and criterion data as provided in the dependent claims. It is further not the matching of profile information relating to one user to the profile information relating to another user as is further recited in the dependent claims.

In fact, Shuster never stores profile information relating to its users on its server. The portion of Shuster identified by the Examiner for this purpose, paragraphs 25 and 26, merely teaches that the user determines which sensors it wants to activate, and that information is stored locally on the "IRD." The IRD is then connected to a network, but there is no teaching of transferring this sensor selection data to any other device.

Accordingly, Shuster does not disclose, teach or suggest the "receiving profile data relating to a wireless mobile device user" step, the "receiving by the server of a request for data from the wireless mobile device user" step, or the matching by the matching database system of data responsive to the request by comparing data to the wireless mobile device user's profile data and determining at least one match" step. Similarly, several features of the dependent claims are not taught, including, as recognized by the Examiner, the interactive element in the notification message to communicate with another person.

Rejections Pursuant to 35 U.S.C. § 103(a)

The Examiner rejects claims 14 and 17-21 pursuant to 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publ. No. 2002/0059370 (Shuster) in view of U.S. Patent Publ. No. 2003/0181201 (Bomze et al.). Specifically, the Examiner states:

Claim 14

> As to claim 14, Shuster teaches the invention substantially as claimed. However, Shuster does not explicitly teach a method of claim 11, further comprising the steps of: displaying billing options on the mobile device; storing the user billing selection on a network server; monitoring the actions of the user on the mobile device in relation to the billing options; and storing billing information on the network server. Bomze teaches a mobile communication device for electronic commerce comprising displaying billing options on the mobile device; storing the user billing selection on a network server; monitoring the actions of the user on the mobile device in relation to the billing options; and storing billing information on the network server (Bomze, ¶¶ 0036, 0040). Thus, it would have been obvious to one of ordinary skill in the art to apply the technique of providing billing information on a mobile device to improve the mobile device of Shuster for the predictable result of enabling standard billing and payment operations on a remote device.

This claim has been canceled and has not been replaced in the new claim set, obviating this rejection.

Claim 17

> As to claim 17, Shuster-Bomze teaches a method according to claim 16, wherein the user of the mobile device may communicate in real-time via voice means or electronic messaging means with a representative of the at least one product or service (Bomze, ¶ 0036; See also Shuster, ¶¶ 0040, 0046).

Claim 18

> As to claim 18, Shuster-Bomze teaches a method according to claim 15, wherein the user of the mobile device may communicate in real-time via voice means or electronic messaging means with a person represented by the matching information provided to the mobile user (Bomze, ¶ 0036; See also Shuster, ¶¶ 0040, 0046).

For the reasons stated above, Shuster fails to teach the underlying elements of the base claim, and Bomze fails to supply the missing teachings. Bomze teaches a system that pushes advertisements to cell phone users in exchange for allowing the cell phone users to have free service. *See*, *e.g.*, paragraph 20 and paragraph 36. This type of broadcast of advertisements is not related to the user driven profile matching of the instant claims. In addition, none of the advertisements appear to have a notification message that presents matched data and that includes an interactive communication element within the message. The fact that the user has a cell phone is not a teaching of a notification of matches that includes an interactive communication element to initiate real-time communication. Similarly, paragraph 40 of Shuster, cited by the Examiner, teaches noting more than Web pages (there is no real-time communication with anyone through the Web pages), and paragraph 46 of Shuster, also cited by the Examiner, teaches no more than the pushing of information. Neither Shuster nor Bomze nor their combination teaches this claim element (in addition to failing to teach the underlying method of the base claim).

Claim 19

> As to claim 19, Shuster-Bomze teaches a method according to claim 18, wherein the real-time communication means is an electronic messaging means and electronic messages sent on the electronic messaging means include at least one of text and graphics relating to the mobile user, or a link or address representing the location of text and graphics relating to the mobile user (Shuster, ¶¶ 0040, 0046).

This claim has been canceled and has not been replaced in the new claim set, obviating this rejection.

Claim 20

> As to claim 20, Shuster-Bomze teaches a system for matching users with profile data of interest to that user to establish real-time interactive communication with another user related to the matched profile data, the system comprising:
>
> a matching database system including a means for entering profile data, a means for matching a user's profile to other profiles, and a notification messaging means for sending notification messages to a user to indicate matches made, the matching

> database system having stored therein a plurality of profiles containing profile data (¶¶ 0025-0027, 0029-0030, 0037-0038); and
>
> a means for allowing users to communicate with the matching database system to enter profiles containing profile data and to receive the notification messages (¶¶ 0025-0027, 0029-0030, 0037-0038);
>
> wherein the notification messages allow the user receiving a notification message to communicate interactively in real-time with a representative of a matched profile (Bomze, ¶ 0036; See also Shuster, ¶¶ 0040, 0046).
>
> *Claim 21*
>
> As to claim 21, Shuster-Bomze teaches the system of claim 20, wherein the profile data includes characteristic and criteria data and the matching is bi-directional (¶¶ 0025-0027, 0029-0030, 0037-0038).

The system claims have been canceled and not replaced, thereby obviating this rejection. To the extent this rejection may be applied to the current method claims, the issues have been addressed above.

The Examiner rejects claims 22 and 23 pursuant to 35 U.S.C. § 103(a) as being unpatentable over Shuster- Bomze and further in view of U.S. Patent Publ. No. 2002/0062245 (Niu et al.). Specifically, the Examiner states:

> *Claim 22*
>
> As to claim 22, Shuster-Bomze teaches the invention substantially as claimed. However, Shuster-Bomze does not explicitly teach the system of claim 20, wherein the means for matching includes a means for determining whether a representative of a matched profile is available for real-time interactive communication through a communication means that is compatible with a communication means used by a matching user. In the same field of endeavor, Niu teaches a system and method for improving ecommerce by enabling real-time interactive communication with the vendor wherein the live chat determines presence (Niu, ¶¶ 0044-0046). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have

> incorporated the real-time communication presence detection for the purpose of implementing better communication to the consumers.

Claim 23

> As to claim 23, Shuster-Bomze-Niu teaches the system of claim 20, wherein the real-time interactive communication is anonymous (Niu, ¶¶ 0044-0046; 0111-0113).

Niu teaches a system for broadcasting promotions (advertisements, coupons, etc.) to users based upon analysis of real-time click-stream data from that user's visit to a particular Web site. Again, this has nothing to do with the user driven profile matching of the present invention.

While Niu does teach using a virtual call center or live text chat over a Web site, there is no teaching of a notification message having an interactive communication element that can be activated (or not) by the ***user***. Applicants' invention is user driven; Niu's system is e-commerce operator driven.

In addition, there is no discussion about maintaining user anonymity in Niu. The paragraphs cited by the Examiner simply never address the topic:

Niu Paras. 44-46 of cited by the Examiner	Niu Paras. 111-113 cited by the Examiner
[0044] Software program **20** may also interact with manager or owner **38** of e-commerce website **12** to dictate the delivery mechanism for the promotion. For example, manager or owner **38** might want the promotion sent to visitor **14** via one of the following means: electronic mail (e-mail), interstitial (a pop-up window on e-commerce website **12**), embedded promotion (such as through a banner advertisement within website **12**), virtual call center (website **12** asks if visitor **14** needs help and assists visitor **14** with his or her problem), live text chat over website **12**, facsimile, or live telephone call. This permits manager or owner **38** to have some control over his e-commerce website's promotional activities. **[0045]** Based on the created visitor data files **22**, **24**, **26**, the system and method of the present invention enable e-commerce owners and managers to better direct their promotions, enable promotions to be tailored to the visitors' display preferences, and generate the right promotion at the right time and the right place. That is, both the subject matter and the presentation of promotions may be customized to the visitor's preferences due to the information tracked and recorded by software program **20**. **[0046]** Furthermore, the system and method of the present invention become increasingly effective and refined with more visitors to the e-commerce website. The present invention also provides the e-commerce website owner or manager with a better understanding of his or her customers, increased revenue, and greater marketing efficiency. The visitors to the e-commerce website, in turn, receive better service, information and value.	**[0111]** Targeting first time visitors who spend an extended amount of time viewing one product. For this example, one target sub-rule and one standard sub-rule are combined—the target sub-rule "Visited X to Y Times in the Past" and the standard sub-rule "Viewed a Given Product for More Than X to Y Seconds." To target the first time visitor, one must choose the parameters X and Y to both be zero for this sub-rule. The visitor's propensity for viewing the same product for extended periods of time can be captured by setting the parameter X to a large value (say 120 seconds in this example). To display the promotion to the visitor who views the same product for more time than 120 seconds without bound, the Y parameter is left blank indicating this value to be infinite. This rule (containing 2 sub-rules) now targets first time visitors who view the same product for extended periods of time. **[0112]** EXAMPLE 3 **[0113]** Suppose an e-commerce site has a system that allows registered users complete access, but this complete access entails a subscription fee. In order to obtain more subscriptions, the marketing manager may want to offer incentives to those unregistered visitors who show interest in this service. The marketing manager is able to target just those individuals. This will prevent "spamming" the entire visitor population. "Spam" is unsolicited e-mail on the Internet, which often has the negative effect of driving visitors away from your site. Thus one implements a rule to give promotions only to visitors who show the most interest. Furthermore, one may wish to not give the promotion to visitors who are already registered or have turned the promotion in the past.

Not only is this lack of teaching dispositive as to the patentability of Applicants' claims requiring anonymous interactive communications, but it stands in sharp contrast to the specific methods and systems developed by Applicants to insure this important aspect of the invention as noted, for example, in paragraphs 42 and 43 of the application as published.

CONCLUSION

The pending claims are in condition for allowance. Applicants request that the Examiner telephone the undersigned in the event that such communication is deemed to expedite prosecution of this matter.

In the event that a petition for an extension of time is required to be submitted at this time, Applicant hereby petitions under 37 CFR 1.136(a) for an extension of time for as many months as are required to ensure that the above-identified application does not become abandoned.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 141449, under Order No. 102431-36.

Respectfully submitted,

Date: February 11, 2008

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